

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ROBERT F. LAMB, et al., : CIVIL ACTION NO. 04-1956 (MLC)
Plaintiffs, :
v. : **MEMORANDUM OPINION**
UNITED STATES OF AMERICA, :
Defendant. :
_____ :

THE PLAINTIFFS – Robert F. Lamb and Jacqueline Lamb – having brought this action to recover damages for personal injuries (Compl.); and it appearing (1) Jacqueline Lamb died on January 17, 2005, and (2) Robert F. Lamb died on June 9, 2005;¹ and the defendant having (1) advised the Court on June 27, 2005 that it had been informed by the plaintiffs' counsel of the deaths of the plaintiffs (dkt. entry no. 12), and (2) filed a "Suggestion Of Deaths Upon The Record" on June 29, 2005 (dkt. entry no. 13); and

IT APPEARING:

Unless [a] motion for substitution is made not later than 90 days after the death is suggested upon the record by service of a statement of the fact of the death as provided herein for the service of the motion, the action shall be dismissed as to the deceased party

Fed.R.Civ.P. 25(a)(1); and it appearing:

After the suggestion of death is filed, a 90-day countdown begins. Within 90 days, some other party or

¹ These dates are listed in Westlaw's "Death Record" library.

the executor or administrator of the deceased must move for substitution of the estate for the deceased, or the deceased's case will be dismissed

McKenna v. Pac. Rail Serv., 32 F.3d 820, 836 (3d Cir. 1994); and

IT APPEARING that no one has moved for substitution in the action, even though more than 90 days have elapsed since the deaths of the plaintiffs were suggested on the record; and thus the Court now being authorized to dismiss the complaint, see Fed.R.Civ.P. 25(a) (1), McCrery v. Knauer, No. 95-1814, 1996 WL 548140, at *1 (E.D. Pa. Sept. 18, 1996) (dismissing complaint for failure to substitute for deceased plaintiff); and the Court intending to dismiss the complaint; and for good cause appearing, the Court will issue an appropriate order and judgment.

s/ Mary L. Cooper
MARY L. COOPER
United States District Judge